

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS**

CRAIG CUNNINGHAM, Plaintiff, v. LJ Ross Associates, Inc., John/Jane Does 1-5 Defendants.	§ § § § § Civil Action No. 4:20-cv-00844 § § § § §

PLAINTIFF'S ORIGINAL COMPLAINT

1. The Plaintiff hereby files this lawsuit against LJ Ross Inc. and John/Jane Does 1-5.
2. The Plaintiff is Craig Cunningham, a natural person, who resides in Plano, Texas.
3. LJ Ross Inc. (hereinafter “LJ Ross”) is a Michigan corporation who can be served via registered agent Rebecca Roberts 4 Universal Way, Jackson, Michigan 49204.
4. John/Jane Does 1-4 are other liable parties currently unknown to the Plaintiff.

Jurisdiction and Venue

5. Jurisdiction of this court arises as the acts happened here and the Plaintiff resides and works in this District. *47 USC 227(b)*.
6. Venue in this District is proper in that the Defendant(s) transact business here and the acts and transactions occurred here. *47 USC 227(b)*.

FACTUAL ALLEGATIONS

7. Plaintiff received an unsolicited phone call from Defendant LJ Ross on August 12, 2020 from telephone number 833-876-0584 to his cell phone. This call was made without his consent and was for a non-emergency purpose.
8. The 833 area code originates from Texas. Defendant is a Michigan entity.
9. Plaintiff, misled as to Defendant's true location, on August 12, 2020 answered the call thinking it possibly was a friend or loved one living in Texas.
10. Defendant LJ Ross identified itself as a debt collector and informed Plaintiff he owed monies for an outstanding electrical bill.
11. During this call Plaintiff asked Defendant LJ Ross if it manually dialed his cell phone number to contact him. Defendant replied that it did not and that a computer was used to call Plaintiff.
12. During this August 12, 2020 call Plaintiff informed Defendant that he disputed the debt in question, did not consent to being called with an autodialer, and did not

want to be called again.

13. Defendant LJ Ross called Plaintiff again on October 23, 2020 seeking to collect a debt for outstanding utility services.

14. On October 23, 2020 Plaintiff again informed Defendant LJ Ross he did not owe a debt, and disputed the debt in question.

15. That same day, frustrated and annoyed by the harassment, Plaintiff calls Defendant LJ Ross back to speak to a manager in order to determine why he was being targeted for the collection of a debt he did not owe.

16. During this call back on October 23, 2020 Defendant LJ Ross initially seeks Plaintiff;s permission to continue calling him with an autodialer.

17. When Plaintiff confronts Defendant LJ Ross about using an autodialer to contact him without his consent, ,Defendant LJ Ross then recants its initial denial of calling Plaintiff with an autodialer. LJ Ross then admits its previous call to Plaintiff that same day was in fact made using an autodialer.

CAUSE OF ACTION

COUNT I

Violations of the Telephone Consumer Protection Act (hereinafter “TCPA”)

18. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
19. The foregoing actions by the Defendants constitute breach of the TCPA by initiating a call using an automated telephone dialing system for a non-emergency purpose without Plaintiff’s consent. These actions violate *47 USC 227(b)* and entitle Plaintiff to \$1,500.00 (fifteen hundred dollars) per call in damages as these were willful actions.

COUNT II

Violations of the Fair Debt Collection Practices Act (hereafter “FDCPA”) 15 USC 1681 et.

1. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
2. The foregoing actions by the Defendants constitute breach of the FDCPA by placing unsolicited and unwelcome phone call to the Plaintiff’s cell phone, making false or misleading representations to Plaintiff in the collection of a debt and failing in their communications to indicate the contact was being made in the collection of a debt.

COUNT III

Violations of the Texas Finance Code 392

1. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
2. The foregoing actions by the Defendants constitute breach of the Texas Finance Code 392 by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone and by making false and misleading representations likely to deceive a consumer.

COUNT IV

Violations of the Texas Business and Commerce Code 305.053

3. Plaintiff Craig Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
4. The foregoing actions by the Defendants constitute breach of the *Texas Business and Commerce Code 305.053* by violating the TCPA 47 USC 227.

PRAYER FOR DAMAGES AND RELIEFS

WHEREFORE, Plaintiff Craig Cunningham, respectfully prays and requests that judgement be entered against each and every Defendant for the following:

1. Statutory damages of \$3,000.00 (three thousand dollars) for each phone call in violation of the TCPA.
2. Statutory damages in the amount of \$1,500.00 (fifteen hundred dollars) for violations of the Texas Business and Commercial Code.
3. Damages of \$5,000.00 (five thousand dollars) per violation of the Texas Finance Code 392.
4. Punitive Damages of \$25,000.00 (twenty five thousand dollars) for violations of the Texas Finance Code and FDCPA.
5. Actual damages as determined by a judge/jury.
6. Pre-judgment interest from the date of the phone text messages at issue.

Respectfully submitted:

/s/ Leland McRae

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of Plaintiff's Original Complaint was served on all named Defendant(s), LJ Ross Associates, Inc who can be served via registered agent Rebecca Roberts 4 Universal Way, Jackson, Michigan 49204.

/s/ Leland McRae

Leland McRae

Attorney for Plaintiff